

conclusions on rebuilding costs no later than three months after completion of pipeline construction.

“(b) There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to be available until expended, the sum of \$200,000 for the purpose of making the study authorized by subsection (a) of this section.”

#### APPROPRIATIONS AUTHORIZATION

Section 127(b) of Pub. L. 93–87 provided that: “For the purpose of completing necessary reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to the south Alaskan border there is authorized to be appropriated the sum of \$58,670,000 to be expended in accordance with the provisions of section 218 of title 23 of the United States Code.”

#### [§ 219. Repealed. Pub. L. 100–17, title I, § 133(e)(1), Apr. 2, 1987, 101 Stat. 173]

Section, added Pub. L. 93–643, § 122(a), Jan. 4, 1975, 88 Stat. 2289; amended Pub. L. 94–280, title I, § 135(a), May 5, 1976, 90 Stat. 441; Pub. L. 95–599, title I, § 168(d), Nov. 6, 1978, 92 Stat. 2723; Pub. L. 96–106, § 10(a), Nov. 9, 1979, 93 Stat. 798, related to projects for safer off-system roads.

### CHAPTER 3—GENERAL PROVISIONS

Sec.	
301.	Freedom from tolls.
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305.	Archeological and paleontological salvage.
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311.	Highway improvements strategically important to the national defense.
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317.	Appropriation for highway purposes of lands or interests in lands owned by the United States.
318.	Highway relocation due to airport.
319.	Landscaping and scenic enhancement.
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[321.]	Repealed.]
322.	Magnetic levitation transportation technology deployment program.
323.	Donations and credits.
324.	Prohibition of discrimination on the basis of sex.
[325.]	Repealed.]
[326.]	Repealed.]

#### AMENDMENTS

1998—Pub. L. 105–178, title I, §§ 1212(a)(2)(B)(i), 1218(b), 1301(d)(3), title V, § 5119(c), June 9, 1998, 112 Stat. 193, 219, 226, 452, substituted “State transportation department” for “State highway department” in item 302, struck out items 307 “Research and planning” and 321 “National Highway Institute”, added item 322, substituted “Donations and credits” for “Donations” in item 323, and struck out items 325 “International highway transportation outreach program” and 326 “Education and training program”.

1991—Pub. L. 102–240, title I, § 1034(b), title VI, §§ 6003(b), 6004(b), Dec. 18, 1991, 105 Stat. 1978, 2168, 2169, added items 303, 325, and 326.

1987—Pub. L. 100–17, title I, § 133(e)(1), Apr. 2, 1987, 101 Stat. 173, struck out item 322 “Demonstration project—rail crossings”.

1983—Pub. L. 97–449, § 5(d)(2), Jan. 12, 1983, 96 Stat. 2442, struck out item 303 “Bureau organization”.

1973—Pub. L. 93–87, title I, §§ 145(b), 162(b), Aug. 13, 1973, 87 Stat. 273, 280, added items 323 and 324.

1970—Pub. L. 91–605, title I, § 115(b), title II, § 205(b), Dec. 31, 1970, 84 Stat. 1723, 1743, added items 321 and 322.

1966—Pub. L. 89–564, title I, § 102(b)(2), Sept. 9, 1966, 80 Stat. 735, struck out item 313 relating to Highway Safety Conference.

1965—Pub. L. 89–285, title III, § 301(b), Oct. 22, 1965, 79 Stat. 1032, inserted “and scenic enhancement” after “Landscaping” in item 319.

#### § 301. Freedom from tolls

Except as provided in section 129 of this title with respect to certain toll bridges and toll tunnels, all highways constructed under the provisions of this title shall be free from tolls of all kinds.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 912.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 129 of this title.

#### § 302. State transportation department

(a) Any State desiring to avail itself of the provisions of this title shall have a State transportation department which shall have adequate powers, and be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by this title. In meeting the provisions of this subsection, a State may engage, to the extent necessary or desirable, the services of private engineering firms.

(b) EFFECT OF COMPLIANCE.—Compliance with subsection (a) shall have no effect on the eligibility of costs.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 912; Pub. L. 89–574, § 11, Sept. 13, 1966, 80 Stat. 770; Pub. L. 105–178, title I, § 1212(a)(1), (2)(A)(i), (B)(ii), June 9, 1998, 112 Stat. 193.)

#### AMENDMENTS

1998—Pub. L. 105–178, § 1212(a)(2)(B)(ii), substituted “State transportation department” for “State highway department” in section catchline.

Subsec. (a). Pub. L. 105–178, § 1212(a)(1)(A), (2)(A)(i), substituted “State transportation department” for “State highway department” and struck out after first sentence “Among other things, the organization shall include a secondary road unit.”

Subsec. (b). Pub. L. 105–178, § 1212(a)(1)(B), added subsec. (b) and struck out former subsec. (b) which read as follows: “The State highway department may arrange with a county or group of counties for competent highway engineering personnel suitably organized and equipped to the satisfaction of the State highway department, to supervise construction and maintenance on a county-unit or group-unit basis, for the construction of projects on the Federal-aid secondary system, financed with secondary funds, and for the maintenance thereof.”

#### § 303. Management systems

(a) REGULATIONS.—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue regulations for State development, establishment, and implementation of a system for managing each of the following:

(1) Highway pavement of Federal-aid highways.

- (2) Bridges on and off Federal-aid highways.
- (3) Highway safety.
- (4) Traffic congestion.
- (5) Public transportation facilities and equipment.
- (6) Intermodal transportation facilities and systems.

In metropolitan areas, such systems shall be developed and implemented in cooperation with metropolitan planning organizations. Such regulations may include a compliance schedule for development, establishment, and implementation of each such system and minimum standards for each such system.

(b) **TRAFFIC MONITORING.**—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue guidelines and requirements for the State development, establishment, and implementation of a traffic monitoring system for highways and public transportation facilities and equipment.

(c) **STATE ELECTION.**—A State may elect, at any time, not to implement, in whole or in part, 1 or more of the management systems required under this section. The Secretary may not impose any sanction on, or withhold any benefit from, a State on the basis of such an election.

(d) **PROCEDURAL REQUIREMENTS.**—In developing and implementing a management system under this section, each State shall cooperate with metropolitan planning organizations for urbanized areas of the State and affected agencies receiving assistance under chapter 53 of title 49 and shall consider the results of the management systems in making project selection decisions under this title and under chapter 53.

(e) **INTERMODAL REQUIREMENTS.**—The management system required under this section for intermodal transportation facilities and systems shall provide for improvement and integration of all of a State's transportation systems and shall include methods of achieving the optimum yield from such systems, methods for increasing productivity in the State, methods for increasing use of advanced technologies, and methods to encourage the use of innovative marketing techniques, such as just-in-time deliveries.

(f) **REPORTS.**—

(1) **ANNUAL REPORTS.**—Not later than January 1 of each calendar year beginning after December 31, 1992, the Secretary shall transmit to Congress a report on the progress being made by the Secretary and the States in carrying out this section.

(2) **REPORT ON IMPLEMENTATION.**—Not later than October 1, 1996, the Comptroller General, in consultation with States, shall transmit to Congress a report on the management systems under this section, including recommendations as to whether, to what extent, and how the management systems should be implemented.

(g) **FUNDING.**—Subject to project approval by the Secretary, a State may obligate funds apportioned after September 30, 1991, under subsections (b)(1), (b)(2), and (b)(3) of section 104 of this title for developing and establishing management systems required by this section and funds apportioned under section 144 of this title for developing and establishing the bridge management system required by this section.

(h) **REVIEW OF REGULATIONS.**—Not later than 10 days after the date of issuance of any regulation under this section, the Secretary shall transmit a copy of such regulation to Congress for review.

(Added Pub. L. 102-240, title I, §1034(a), Dec. 18, 1991, 105 Stat. 1977; amended Pub. L. 103-429, §3(8), (9), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 104-59, title II, §205(a), Nov. 28, 1995, 109 Stat. 576.)

#### REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (a) and (b), is the date of enactment of Pub. L. 102-240, which was approved Dec. 18, 1991.

#### PRIOR PROVISIONS

A prior section 303, Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 912; Pub. L. 87-392, §1, Oct. 4, 1961, 75 Stat. 822; Pub. L. 88-426, title III, §305(24), Aug. 14, 1964, 78 Stat. 425; Pub. L. 91-605, title I, §114(a), Dec. 31, 1970, 84 Stat. 1722; Pub. L. 93-87, title I, §152(4), Aug. 13, 1973, 87 Stat. 276, provided for administrative organization of the Federal Highway Administration, prior to repeal by Pub. L. 97-449, §7(b), Jan. 12, 1983, 96 Stat. 2445. See section 104 of Title 49, Transportation.

#### AMENDMENTS

1995—Subsec. (c). Pub. L. 104-59, §205(a)(1), added subsec. (c) and struck out former subsec. (c) which read as follows:

“(c) **STATE REQUIREMENTS.**—The Secretary may withhold up to 10 percent of the funds apportioned under this title and under chapter 53 of title 49 for any fiscal year beginning after September 30, 1995, to any State and any recipient of assistance under such Act in the State unless, in the preceding fiscal year, the State was implementing each of the management systems described in subsection (a) and, before January 1 of the preceding fiscal year, the State certified, in writing, to the Secretary, that the State was implementing each of such management systems in the preceding fiscal year.”

Subsec. (f). Pub. L. 104-59, §205(a)(2), inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading and realigned margins, and added par. (2).

1994—Subsec. (c). Pub. L. 103-429, §3(8), substituted “chapter 53 of title 49” for “the Federal Transit Act”.

Subsec. (d). Pub. L. 103-429, §3(9), substituted “chapter 53 of title 49” for “the Federal Transit Act” and “chapter 53” for “such Act”.

#### EFFECTIVE DATE

Section effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as an Effective Date of 1991 Amendment note under section 104 of this title.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in subsec. (f)(1) of this section, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 137 of House Document No. 103-7.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 103, 109, 133, 505 of this title.

### § 304. Participation by small business enterprises

It is declared to be in the national interest to encourage and develop the actual and potential capacity of small business and to utilize this im-

portant segment of our economy to the fullest practicable extent in construction of the Federal-aid highway systems, including the Interstate System. In order to carry out that intent and encourage full and free competition, the Secretary should assist, insofar as feasible, small business enterprises in obtaining contracts in connection with the prosecution of the highway program.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 913.)

### § 305. Archeological and paleontological salvage

Funds authorized to be appropriated to carry out this title to the extent approved as necessary by the highway department of any State, may be used for archeological and paleontological salvage in that State in compliance with the Act entitled “An Act for the preservation of American antiquities”, approved June 8, 1906 (34 Stat. 225), and State laws where applicable,

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 913; Pub. L. 86-657, § 8(e), July 14, 1960, 74 Stat. 525.)

#### REFERENCES IN TEXT

An Act for the preservation of American antiquities, referred to in text, is act June 8, 1906, ch. 3060, 34 Stat. 225, popularly known as the Antiquities Act of 1906, which is classified generally to sections 431, 432, and 433 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 431 of Title 16 and Tables.

#### AMENDMENTS

1960—Pub. L. 86-657 substituted “appropriated to carry out this title to the extent approved” for “appropriated under the Federal-Aid Highway Act of 1956, to the extent approved”.

### § 306. Mapping

(a) IN GENERAL.—In carrying out the provisions of this title, the Secretary may, wherever practicable, authorize the use of photogrammetric methods in mapping, and the utilization of commercial enterprise for such services.

(b) GUIDANCE.—The Secretary shall issue guidance to encourage States to utilize, to the maximum extent practicable, private sector sources for surveying and mapping services for projects under this title. In carrying out this subsection, the Secretary shall recommend appropriate roles for State and private mapping and surveying activities, including—

- (1) preparation of standards and specifications;
- (2) research in surveying and mapping instrumentation and procedures and technology transfer to the private sector;
- (3) providing technical guidance, coordination, and administration of State surveying and mapping activities; and
- (4) recommending methods for increasing the use by the States of private sector sources for surveying and mapping activities.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 913; Pub. L. 104-59, title III, § 321, Nov. 28, 1995, 109 Stat. 590.)

#### AMENDMENTS

1995—Pub. L. 104-59 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

### [§ 307. Repealed. Pub. L. 105-178, title V, § 5119(b), June 9, 1998, 112 Stat. 452]

Section, Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 913; Pub. L. 87-866, § 11, Oct. 23, 1962, 76 Stat. 1148; Pub. L. 88-157, § 6, Oct. 24, 1963, 77 Stat. 277; Pub. L. 89-564, title I, § 103, Sept. 9, 1966, 80 Stat. 735; Pub. L. 91-605, title I, § 115(c), 126, 136(c), Dec. 31, 1970, 84 Stat. 1723, 1729, 1735; Pub. L. 93-87, title I, § 151, Aug. 13, 1973, 87 Stat. 276; Pub. L. 96-470, title I, § 112(b)(2), Oct. 19, 1980, 94 Stat. 2239; Pub. L. 97-424, title I, §§ 156(a), (b), (d), 160(a), Jan. 6, 1983, 96 Stat. 2134, 2135; Pub. L. 100-17, title I, §§ 128, 129, 133(b)(17), Apr. 2, 1987, 101 Stat. 167, 169, 172; Pub. L. 102-240, title VI, §§ 6001, 6005, Dec. 18, 1991, 105 Stat. 2162, 2170; Pub. L. 103-429, § 3(10), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 104-59, title III, § 325(d), Nov. 28, 1995, 109 Stat. 592, related to research and planning.

#### INTELLIGENT TRANSPORTATION SYSTEMS

Part B of title VI of Pub. L. 102-240, as amended by Pub. L. 102-388, title IV, § 404, Oct. 6, 1992, 106 Stat. 1564; Pub. L. 104-59, title III, § 338(a), (b), (c)(2), Nov. 28, 1995, 109 Stat. 603, 604; Pub. L. 105-130, § 5(d), Dec. 1, 1997, 111 Stat. 2557, related to Intelligent Transportation Systems Act of 1991, including provisions relating to establishment and scope of program, general authorities and requirements, strategic plan, implementation, and report to Congress, technical, planning, and operational testing project assistance, applications of technology, commercial motor vehicle safety technology, funding, and definitions, prior to repeal by Pub. L. 105-178, title V, § 5213, June 9, 1998, 112 Stat. 463. See Pub. L. 105-178, title V, §§ 5201-5213, June 9, 1998, 112 Stat. 452-463, set out as a note under section 502 of this title.

### § 308. Cooperation with Federal and State agencies and foreign countries

(a) The Secretary is authorized to perform by contract or otherwise, authorized engineering or other services in connection with the survey, construction, maintenance, or improvement of highways for other Government agencies, cooperating foreign countries, and State cooperating agencies, and reimbursement for such services, which may include depreciation on engineering and roadbuilding equipment used, shall be credited to the appropriation concerned.

(b) Appropriations for the work of the Federal Highway Administration shall be available for expenses of warehouse maintenance and the procurement, care, and handling of supplies, materials, and equipment for distribution to projects under the supervision of the Federal Highway Administration, or for sale or distribution to other Government agencies, cooperating foreign countries, and State cooperating agencies, and the cost of such supplies and materials or the value of such equipment, including the cost of transportation and handling, may be reimbursed to current applicable appropriations.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 914; Pub. L. 93-87, title I, § 152(5), Aug. 13, 1973, 87 Stat. 276.)

#### AMENDMENTS

1973—Subsec. (b). Pub. L. 93-87 substituted “Federal Highway Administration” for “Bureau of Public Roads” in two places.

### § 309. Cooperation with other American Republics

The President is authorized to utilize the services of the Federal Highway Administration in fulfilling the obligations of the United States under the Convention on the Pan-American

Highway Between the United States and Other American Republics (51 Stat. 152), cooperating with several governments, members of the Organization of American States, in connection with the survey and construction of the Inter-American Highway, and for performing engineering service in the other American Republics for and upon the request of any agency or governmental corporation of the United States. To the extent authorized in appropriation acts, administrative funds available in accordance with subsection (a) of section 104 of this title shall be available annually for the purpose of this section.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 914; Pub. L. 93-87, title I, §152(5), Aug. 13, 1973, 87 Stat. 276.)

#### AMENDMENTS

1973—Pub. L. 93-87 substituted “Federal Highway Administration” for “Bureau of Public Roads”.

#### PAN AMERICAN HIGHWAY STUDY

Pub. L. 104-59, title III, §359(a), Nov. 28, 1995, 109 Stat. 626, provided that:

“(1) STUDY.—The Secretary shall conduct a study on the adequacy of and the need for improvements to the Pan American Highway.

“(2) ELEMENTS.—The study shall include, at a minimum, the following elements:

“(A) Findings on the benefits of constructing a highway at Darien Gap, Panama and Colombia.

“(B) Recommendations for a self-financing arrangement for completion and maintenance of the Pan American Highway.

“(C) Recommendations for establishing a Pan American highway authority to monitor financing, construction, maintenance, and operations of the Pan American Highway.

“(D) Findings on the benefits to trade and prosperity of a more efficient Pan American Highway.

“(E) Findings on the benefits to United States industry resulting from the use of United States technology and equipment in construction of improvements to the Pan American Highway.

“(F) Findings on environmental considerations, including environmental considerations relating to Darien Gap.

“(3) REPORT.—Not later than 2 years after the date of the enactment of this Act [Nov. 28, 1995], the Secretary shall transmit to Congress a report on the results of the study.”

### § 310. Civil defense

In order to assure that adequate consideration is given to civil defense aspects in the planning and construction of highways constructed or reconstructed with the aid of Federal funds, the Secretary of Transportation is authorized and directed to consult, from time to time, with the Federal Civil Defense Administrator relative to the civil defense aspects of highways so constructed or reconstructed.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 914; Pub. L. 93-87, title I, §152(3), Aug. 13, 1973, 87 Stat. 276.)

#### AMENDMENTS

1973—Pub. L. 93-87 substituted “Secretary of Transportation” for “Secretary of Commerce”.

#### TRANSFER OF FUNCTIONS

Office of Federal Civil Defense Administrator, referred to in text, abolished and functions thereof transferred to President by Reorg. Plan No. 1 of 1958, set out as a note under section 5195 of Title 42, The Public Health and Welfare. The Plan also established a new

agency in the Executive Office of the President, known as the Office of Defense and Civilian Mobilization to be headed by a Director. Office redesignated as the Office of Civil and Defense Mobilization by act Aug. 26, 1958 (72 Stat. 861; 42 U.S.C. 5195 note). Civil defense functions transferred to Secretary of Defense by Executive Order No. 10952 of July 20, 1961, formerly set out as a note under section 2271 of Title 50, Appendix, War and National Defense, and remaining functions redesignated Office of Emergency Planning by act Sept. 22, 1961 (75 Stat. 630; 42 U.S.C. 5195 note). Office redesignated Office of Emergency Preparedness by act Oct. 21, 1968 (82 Stat. 1194; 42 U.S.C. 5195 note). Office of Emergency Preparedness including office of Director abolished and functions thereof transferred to President by Reorg. Plan No. 1 of 1973, set out as a note under section 5195 of Title 42.

### § 311. Highway improvements strategically important to the national defense

Funds made available under subsection (a) of section 104 of this title may be used to pay the entire engineering costs of the surveys, plans, specifications, estimates, and supervision of construction of projects for such urgent improvements of highways strategically important from the standpoint of the national defense as may be undertaken on the order of the Secretary and as the result of request of the Secretary of Defense or such other official as the President may designate. With the consent of a State, funds made available under subsection (b) of section 104 of this title may be used to the extent deemed necessary and advisable by the Secretary to carry out the provisions of this section.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 915.)

#### NATIONAL DEFENSE HIGHWAYS LOCATED OUTSIDE UNITED STATES

Pub. L. 102-240, title I, §1006(h), Dec. 18, 1991, 105 Stat. 1927, provided that:

“(1) RECONSTRUCTION PROJECTS.—If the Secretary determines, after consultation with the Secretary of Defense, that a highway, or portion of a highway, located outside the United States is important to the national defense, the Secretary may carry out a project for the reconstruction of such highway or portion of highway.

“(2) FUNDING.—The Secretary may make available, from funds appropriated to construct the National System of Interstate and Defense Highways, not to exceed \$20,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, and 1996 to carry out this subsection. Such sums shall remain available until expended.”

### § 312. Detail of Army, Navy, and Air Force officers

The Secretary of Defense, upon request of the Secretary, is authorized to make temporary details to the Federal Highway Administration of officers of the Army, the Navy, and the Air Force, without additional compensation, for technical advice and for consultation regarding highway needs for the national defense. Travel and subsistence expenses of officers so detailed shall be paid from appropriations available to the Department of Transportation on the same basis as authorized by law and by regulations of the Department of Defense for such officers.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 915; Pub. L. 93-87, title I, §152(5), (6), Aug. 13, 1973, 87 Stat. 276.)

## AMENDMENTS

1973—Pub. L. 93-87 substituted “Federal Highway Administration” for “Bureau of Public Roads” and “Department of Transportation” for “Department of Commerce”.

**[§ 313. Repealed. Pub. L. 89-564, title I, § 102(a), Sept. 9, 1966, 80 Stat. 734]**

Section, Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 915, authorized the Secretary to cooperate with State highway departments and other agencies in the promotion of highway safety and authorized the expenditure of \$150,000 out of the administrative funds made available in accordance with section 104(a) of this title for the purposes of this section. See section 401 et seq. of this title.

## EXECUTIVE ORDER NO. 10858

Ex. Ord. No. 10858, Jan. 13, 1960, 25 F.R. 373, as amended by Ex. Ord. No. 10968, Oct. 10, 1961, 26 F.R. 9667, which established the President's Committee for Traffic Safety, was revoked by section 16 of Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, formerly set out as a note under section 1652 of former Title 49, Appendix, Transportation.

## EXECUTIVE ORDER NO. 10898

Ex. Ord. No. 10898, Dec. 2, 1960, 25 F.R. 12429, as amended by Ex. Ord. No. 10986, Jan. 12, 1962, 27 F.R. 439; Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, which established the Interdepartmental Highway Safety Board, was revoked by Ex. Ord. No. 11515, Mar. 13, 1970, 35 F.R. 4543.

**§ 314. Relief of employees in hazardous work**

The Secretary is authorized in an emergency to use appropriations to the Department of Transportation for carrying out the provisions of this title for medical supplies, services, and other assistance necessary for the immediate relief of employees of the Federal Highway Administration engaged in hazardous work.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 915; Pub. L. 93-87, title I, § 152(5), (6), Aug. 13, 1973, 87 Stat. 276.)

## AMENDMENTS

1973—Pub. L. 93-87 substituted “Department of Transportation” for “Department of Commerce” and “Federal Highway Administration” for “Bureau of Public Roads”.

**§ 315. Rules, regulations, and recommendations**

Except as provided in sections 204(f) and 205(a) of this title, the Secretary is authorized to prescribe and promulgate all needful rules and regulations for the carrying out of the provisions of this title. The Secretary may make such recommendations to the Congress and State transportation departments as he deems necessary for preserving and protecting the highways and insuring the safety of traffic thereon.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 915; Pub. L. 100-17, title I, § 133(b)(18), Apr. 2, 1987, 101 Stat. 172; Pub. L. 105-178, title I, § 1212(a)(2)(A)(ii), June 9, 1998, 112 Stat. 193.)

## AMENDMENTS

1998—Pub. L. 105-178 substituted “State transportation departments” for “State highway departments”.

1987—Pub. L. 100-17 which directed that this section be amended by substituting “204(f) and 205(a)” for

“204(d), 205(a), 207(b), and 208(c)” was executed by substituting “204(f) and 205(a)” for “204(d), 205(a), 206(b), 207(b), and 208(c)”, to reflect the probable intent of Congress.

**§ 316. Consent by United States to conveyance of property**

For the purposes of this title the consent of the United States is given to any railroad or canal company to convey to the State transportation department of any State, or its nominee, any part of its right-of-way or other property in that State acquired by grant from the United States.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 915; Pub. L. 105-178, title I, § 1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193.)

## AMENDMENTS

1998—Pub. L. 105-178 substituted “State transportation department” for “State highway department”.

**§ 317. Appropriation for highway purposes of lands or interests in lands owned by the United States**

(a) If the Secretary determines that any part of the lands or interests in lands owned by the United States is reasonably necessary for the right-of-way of any highway, or as a source of materials for the construction or maintenance of any such highway adjacent to such lands or interests in lands, the Secretary shall file with the Secretary of the Department supervising the administration of such lands or interests in lands a map showing the portion of such lands or interests in lands which it is desired to appropriate.

(b) If within a period of four months after such filing, the Secretary of such Department shall not have certified to the Secretary that the proposed appropriation of such land or material is contrary to the public interest or inconsistent with the purposes for which such land or materials have been reserved, or shall have agreed to the appropriation and transfer under conditions which he deems necessary for the adequate protection and utilization of the reserve, then such land and materials may be appropriated and transferred to the State transportation department, or its nominee, for such purposes and subject to the conditions so specified.

(c) If at any time the need for any such lands or materials for such purposes shall no longer exist, notice of the fact shall be given by the State transportation department to the Secretary and such lands or materials shall immediately revert to the control of the Secretary of the Department from which they had been appropriated.

(d) The provisions of this section shall apply only to projects constructed on a Federal-aid system or under the provisions of chapter 2 of this title.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 916; Pub. L. 105-178, title I, § 1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193.)

## AMENDMENTS

1998—Subsecs. (b), (c). Pub. L. 105-178 substituted “State transportation department” for “State highway department”.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 43 section 1770.

**§ 318. Highway relocation due to airport**

Federal highway funds shall not be used for the reconstruction or relocation of any highway giving access to an airport constructed or extended after December 20, 1944, or for the reconstruction or relocation of any highway which has been or may be closed or the usefulness of which has been or may be impaired by the location or construction of any airport constructed or extended after December 20, 1944, unless, prior to such construction or extension, as the case may be, the State transportation department and the Secretary have concurred with the officials in charge of the airport that the location of such airport or extension thereof and the consequent reconstruction or relocation of the highway are in the public interest.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 916; Pub. L. 105-178, title I, §1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193.)

## AMENDMENTS

1998—Pub. L. 105-178 substituted “State transportation department” for “State highway department”.

**§ 319. Landscaping and scenic enhancement**

(a) LANDSCAPE AND ROADSIDE DEVELOPMENT.—The Secretary may approve as a part of the construction of Federal-aid highways the costs of landscape and roadside development, including acquisition and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities reasonably necessary to accommodate the traveling public, and for acquisition of interests in and improvement of strips of land necessary for the restoration, preservation, and enhancement of scenic beauty adjacent to such highways.

(b) PLANTING OF WILDFLOWERS.—

(1) GENERAL RULE.—The Secretary shall require the planting of native wildflower seeds or seedlings, or both, as part of any landscaping project under this section. At least ¼ of 1 percent of the funds expended for such landscaping project shall be used for such plantings.

(2) WAIVER.—The requirements of this subsection may be waived by the Secretary if a State certifies that native wildflowers or seedlings cannot be grown satisfactorily or planting areas are limited or otherwise used for agricultural purposes.

(3) GIFTS.—Nothing in this subsection shall be construed to prohibit the acceptance of native wildflower seeds or seedlings donated by civic organizations or other organizations and individuals to be used in landscaping projects.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 916; Pub. L. 89-285, title III, §301(a), Oct. 22, 1965, 79 Stat. 1032; Pub. L. 89-574, §8(b), Sept. 13, 1966, 80 Stat. 768; Pub. L. 90-495, §6(f), Aug. 23, 1968, 82 Stat. 818; Pub. L. 94-280, title I, §136(a), May 5, 1976, 90 Stat. 442; Pub. L. 100-17, title I, §130, Apr. 2, 1987, 101 Stat. 169.)

## AMENDMENTS

1987—Pub. L. 100-17 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1976—Pub. L. 94-280, in revising section, struck out subsec. (a) designation for existing text; incorporated as part of the section provision of former subsec. (b) for acquisition of interests in and improvement of strips of land necessary for the restoration, preservation, and enhancement of scenic beauty adjacent to Federal-aid highways; and struck out subsec. (b) designation and other subsec. (b) provisions relating to: allocation to a State out of appropriated funds an amount equivalent to 3 per centum of funds apportioned to a State for Federal-aid highways for landscape and roadside development use within the highway right-of-way, including acquisition and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities within or adjacent to the highway right-of-way without being matched by the State; authorization of Secretary to except a State from the requirement upon a showing that amount is in excess of the State needs for the purposes; lapse of unused funds; appropriations authorization of \$120,000,000 for fiscal years ending June 30, 1966, and 1967, and \$20,000,000 for fiscal year ending June 30, 1970; and provision making chapter 1 respecting obligation, period of availability, and expenditure of Federal-aid primary highway funds applicable to funds authorized to be appropriated to carry out subsec. (b) after June 30, 1967.

1968—Subsec. (b). Pub. L. 90-495 inserted provisions authorizing an appropriation of not to exceed \$20,000,000 for the fiscal year ending June 30, 1970.

1966—Subsec. (b). Pub. L. 89-574 substituted provisions making applicable to the funds authorized to be appropriated to carry out this subsection after June 30, 1967, the provisions of chapter 1 of this title relating to the obligations, period of availability, and expenditure of Federal-aid primary highway funds for provisions prohibiting the use of any part of the Highway Trust Fund in carrying out this subsection.

1965—Pub. L. 89-285 rearranged section structurally, made provision for apportionment of an amount, in addition to the state's annual apportionment, equivalent to 3 per centum of the fund annually apportioned to the state for federal-aid highways to acquire interests and improvements for restoration, preservation, and enhancement of scenic beauty adjacent to Federal-aid highways, authorized appropriations of \$120,000,000 for fiscal year ending June 30, 1966, and \$120,000,000 for fiscal year ending June 30, 1967, and prohibited use of Highway Trust Fund moneys in carrying out the scenic enhancement provisions.

## EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective August 23, 1968, see section 37 of Pub. L. 90-495, set out as a note under section 101 of this title.

## CONTINUING AVAILABILITY OF APPROPRIATED FUNDS FOR APPROPRIATION, OBLIGATION, AND EXPENDITURE

Section 136(b) of Pub. L. 94-280 provided that: “All sums authorized to be appropriated to carry out section 319(b) of title 23, United States Code [former subsec. (b) of this section], as in effect immediately before the date of enactment of this section [May 5, 1976] shall continue to be available for appropriation, obligation, and expenditure in accordance with such section 319(b) [former subsec. (b) of this section], notwithstanding the amendment made by the subsection (a) of this section [to this section].”

## NATIONAL SCENIC HIGHWAY SYSTEM STUDY AND USER ACCESS STUDY FOR PARKS AND RECREATION AREAS

Pub. L. 93-87, title I, §134, Aug. 13, 1973, 87 Stat. 268, mandated a study to determine the feasibility of a scenic highway system to link together recreational, historical sites, and a study of user access to parks and recreational areas, including alternatives to private automobiles, the results of the studies to be reported to Congress no later than July 1, 1974, and Jan. 1, 1975, respectively.

## ACQUISITION OF DWELLINGS

Prohibition against the use of eminent domain to acquire any dwelling (including related buildings) under the terms of Pub. L. 89-285, see section 305 of Pub. L. 89-285, set out as a note under section 131 of this title.

TAKING OF PRIVATE PROPERTY WITHOUT JUST  
COMPENSATION

Prohibition against the taking of private property or the restriction of reasonable and existing use by such taking without just compensation under the terms of Pub. L. 89-285, see section 401 of Pub. L. 89-285, set out as a note under section 131 of this title.

**§ 320. Bridges on Federal dams**

(a) Each executive department, independent establishment, office, board, bureau, commission, authority, administration, corporation wholly owned or controlled by the United States, or other agency of the Government of the United States, hereinafter collectively and individually referred to as "agency", which on or after July 29, 1946, has jurisdiction over and custody of any dam constructed or to be constructed and owned by or for the United States, is authorized, with any funds available to it, to design and construct any such dam in such manner that it will constitute and serve as a suitable and adequate foundation to support a public highway bridge upon and across such dam, and to design and construct upon the foundation thus provided a public highway bridge upon and across such dam. The highway department of the State in which such dam shall be located, jointly with the Secretary, shall first determine and certify to such agency that such bridge is economically desirable and needed as a link in the State or Federal-aid highway systems, and shall request such agency to design and construct such dam so that it will serve as a suitable and adequate foundation for a public highway bridge and to design and construct such public highway bridge upon and across such dam, and shall agree to reimburse such agency pursuant to subsection (d) of this section for any additional costs which it may be required to incur because of the design and construction of such dam so that it will serve as a foundation for a public highway bridge and for expenditures which it may find it necessary to make in designing and constructing such public highway bridge upon and across such dam. In no case shall the design and construction of a bridge upon and across such dam be undertaken hereunder except by the agency having jurisdiction over and custody of the dam, acting directly or through contractors employed by it, and after such agency shall determine that it will be structurally feasible and will not interfere with the proper functioning and operation of the dam.

(b) Construction of any bridge upon and across any dam pursuant to this section shall not be commenced unless and until the State in which such bridge is to be located, or the appropriate subdivision of such State, shall enter into an agreement with such agency and with the Secretary to construct, or cause to be constructed, with or without the aid of Federal funds, the approach roads necessary to connect such bridge with existing public highways and to maintain,

or cause to be maintained, such approach roads from and after their completion. Such agreement may also provide for the design and construction of such bridge upon and across the dam by such agency of the United States and for reimbursing such agency the costs incurred by it in the design and construction of the bridge as provided in subsection (d) of this section. Any such agency is hereby authorized to convey to the State, or to the appropriate subdivision thereof, without costs, such easements and rights-of-way in its custody or over lands of the United States in its custody and control as may be necessary, convenient, or proper for the location, construction, and maintenance of the approach roads referred to in this section including such roadside parks or recreational areas of limited size as may be deemed necessary for the accommodation of the traveling public. Any bridge constructed pursuant to this section upon and across a dam in the custody and jurisdiction of any agency of the United States, including such portion thereof, if any, as may extend beyond the physical limits of the dam, shall constitute and remain a part of said dam and be maintained by the agency. Any such agency may enter into any such contracts and agreements with the State or its subdivisions respecting public use of any bridge so located and constructed as may be deemed appropriate, but no such bridge shall be closed to public use by the agency except in cases of emergency or when deemed necessary in the interest of national security.

(c) All costs and expenses incurred and expenditures made by any agency in the exercise of the powers and authority conferred by this section (but not including any costs, expenses, or expenditures which would have been required in any event to satisfy a legal road or bridge relocation obligation or to meet operating or other agency needs) shall be recorded and kept separate and apart from the other costs, expenses, and expenditures of such agency, and no portion thereof shall be charged or allocated to flood control, navigation, irrigation, fertilizer production, the national defense, the development of power, or other program, purpose, or function of such agency.

(d) Not to exceed \$65,000,000 of any money heretofore or hereafter appropriated for expenditure in accordance with the provisions of this title or prior Acts shall be available for expenditure by the Secretary in accordance with the provisions of this section, as an emergency fund, to reimburse any agency for any additional costs or expenditures which it may be required to incur because of the design and construction of any such dam so that it will constitute and serve as a foundation for a public highway bridge upon and across such dam and to reimburse any such agency for any costs, expenses, or expenditures which it may be required to make in designing and constructing any such bridge upon and across a dam in accordance with the provisions of this section, except such costs, expenses, or expenditures as would have been required of such agency in any event to satisfy a legal obligation to relocate a highway or bridge or to meet operating or other agency needs, and there is authorized to be appropriated

any sum or sums necessary to reimburse the funds so expended by the Secretary from time to time under the authority of this section. Of each bridge constructed upon and across a dam under the provisions of this section, there may be financed wholly with Federal funds that portion thereof which is located within the physical limits of the masonry structure, or structures, of the dam, and the Secretary shall in his sole discretion determine what additional portion of the bridge, if any, may be so financed, such determination to be final and conclusive. The remainder of the bridge, and any necessary related approach roads, shall be financed by the State or its appropriate subdivision with or without the aid of Federal funds; but said portion of the bridge so financed by the State or its subdivisions, including such portion thereof, if any, as may extend beyond the physical limits of the dam, shall nevertheless be designed and constructed solely by the agency having custody and jurisdiction of the dam as provided in subsection (a) of this section.

(e) In making, reviewing, or approving the design of any bridge or approach structure to be constructed under this section, the agency shall, in matters relating to roadway design, loadings, clearances and widths, and traffic safeguards, give full consideration to and be guided by the standards and advice of the Secretary.

(f) The authority conferred by this section shall be in addition to and not in limitation of authority conferred upon any agency by any other law, and nothing in this section contained shall affect or be deemed to relate to any bridge, approach structure, or highway constructed or to be constructed by any such agency in furtherance of its lawful purposes and requirements or to satisfy a legal obligation incurred independently of this section.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 917; Pub. L. 86-342, title I, §108, Sept. 21, 1959, 73 Stat. 613; Pub. L. 88-423, §4(c), Aug. 13, 1964, 78 Stat. 398; Pub. L. 91-605, title I, §116(a), Dec. 31, 1970, 84 Stat. 1724; Pub. L. 93-87, title I, §128(a), Aug. 13, 1973, 87 Stat. 265; Pub. L. 93-643, §123(a), Jan. 4, 1975, 88 Stat. 2290; Pub. L. 94-280, title I, §137(a), May 5, 1976, 90 Stat. 443; Pub. L. 95-599, title I, §128(a), Nov. 6, 1978, 92 Stat. 2707.)

#### AMENDMENTS

1978—Subsec. (d).	Pub. L. 95-599	substituted
“\$65,000,000” for “\$50,000,000”.		
1976—Subsec. (d).	Pub. L. 94-280	substituted
“\$50,000,000” for “\$27,761,000”.		
1975—Subsec. (d).	Pub. L. 93-643	substituted
“\$27,761,000” for “\$25,261,000”.		
1973—Subsec. (d).	Pub. L. 93-87	substituted
“\$25,261,000” for “\$16,761,000”.		
1970—Subsec. (d).	Pub. L. 91-605	substituted
“\$16,761,000” for “\$13,000,000”.		
1964—Subsec. (b).	Pub. L. 88-423	substituted “which such bridge is to be located, or the appropriate subdivision of such State, shall enter into an agreement with such agency and with” for “such State, shall enter into an agreement with such agency and with which such bridge is to be located, or the appropriate subdivision of”.
1959—Subsec. (d).	Pub. L. 86-342	substituted
“\$13,000,000” for “\$10,000,000”.		

#### APPROPRIATION OUT OF HIGHWAY TRUST FUND OF SUMS APPROPRIATED UNDER AUTHORITY OF INCREASED AUTHORIZATION

Section 128(b) of Pub. L. 95-599 provided that: “Sums appropriated or expended under authority of the increased authorization established by the amendment made by subsection (a) of this section [amending subsec. (d) of this section] shall be appropriated out of the Highway Trust Fund for the fiscal year ending September 30, 1978, and for subsequent fiscal years.”

#### APPROPRIATION OF INCREASED AUTHORIZATION

Section 137(b) of Pub. L. 94-280 provided that: “Sums appropriated or expended under authority of the increased authorization established by the amendment made by subsection (a) of this section [to subsec. (d) of this section] shall be appropriated out of the Highway Trust Fund for the fiscal year ending September 30, 1977, and for subsequent fiscal years.”

#### RESTRICTION ON INCREASED AUTHORIZATION OF APPROPRIATIONS

Section 116(b) of Pub. L. 91-605 provided that: “All sums appropriated under authority of the increased authorization of \$3,761,000 established by the amendment made by subsection (a) of this section [amending subsec. (d) of this section] shall be available for expenditure only in connection with the construction of a bridge across Markland Dam on the Ohio River near Markland, Indiana, and Warsaw, Kentucky. No such sums shall be appropriated until all applicable requirements of section 320 of title 23 of the United States Code have been complied with by the appropriate Federal agency, the Secretary of Transportation, and the States of Kentucky and Indiana.”

Section 123(b) of Pub. L. 93-643 provided that: “All sums appropriated under authority of the increased authorization established by the amendment made by subsection (a) of this section shall be available for expenditure in the same manner and for the same purpose as provided for in subsection (b) of section 116 of the Federal-Aid Highway Act of 1970 (Public Law 91-605).”

Section 128(b) of Pub. L. 93-87 provided that: “All sums appropriated under authority of the increased authorization of \$8,500,000 established by the amendment made by subsection (a) of this section [to subsec. (d) of this section] shall be available for expenditure only in connection with the construction of a bridge across lock and dam numbered 13 on the Arkansas River near Fort Smith, Arkansas, in the amount of \$2,100,000 and in connection with reconstruction of a bridge across the Chickamauga Dam on the Tennessee River near Chattanooga, Tennessee, in the amount of \$6,400,000. No such sums shall be appropriated until all applicable requirements of section 320 of title 23 of the United States Code have been complied with by the appropriate Federal agency, the Secretary of Transportation, and the State of Arkansas for the Fort Smith project, and the State of Tennessee for the Chattanooga project.”

#### §321. Repealed. Pub. L. 105-178, title V, §5119(b), June 9, 1998, 112 Stat. 452]

Section, added Pub. L. 91-605, title I, §115(a), Dec. 31, 1970, 84 Stat. 1723; amended Pub. L. 96-106, §11, Nov. 9, 1979, 93 Stat. 798; Pub. L. 100-17, title I, §131, Apr. 2, 1987, 101 Stat. 170; Pub. L. 102-240, title VI, §6002, Dec. 18, 1991, 105 Stat. 2166; Pub. L. 105-130, §5(e)(3), Dec. 1, 1997, 111 Stat. 2557, related to National Highway Institute.

#### §322. Magnetic levitation transportation technology deployment program

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ELIGIBLE PROJECT COSTS.—The term “eligible project costs”—



(A) means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station; and

(B) includes the costs of preconstruction planning activities.

(2) **FULL PROJECT COSTS.**—The term “full project costs” means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

(3) **MAGLEV.**—The term “MAGLEV” means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

(4) **PARTNERSHIP POTENTIAL.**—The term “partnership potential” has the meaning given the term in the commercial feasibility study of high-speed ground transportation conducted under section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1978).

(b) **FINANCIAL ASSISTANCE.**—

(1) **IN GENERAL.**—The Secretary shall make available financial assistance to pay the Federal share of full project costs of eligible projects selected under this section. Financial assistance made available under this section and projects assisted with the assistance shall be subject to section 5333(a) of title 49, United States Code.

(2) **FEDERAL SHARE.**—The Federal share of full project costs under paragraph (1) shall be not more than ⅓.

(3) **USE OF ASSISTANCE.**—Financial assistance provided under paragraph (1) shall be used only to pay eligible project costs of projects selected under this section.

(c) **SOLICITATION OF APPLICATIONS FOR ASSISTANCE.**—Not later than 180 days after the date of enactment of this subsection, the Secretary shall solicit applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b) for planning, design, and construction of eligible MAGLEV projects.

(d) **PROJECT ELIGIBILITY.**—To be eligible to receive financial assistance under subsection (b), a project shall—

(1) involve a segment or segments of a high-speed ground transportation corridor that exhibit partnership potential;

(2) require an amount of Federal funds for project financing that will not exceed the sum of—

(A) the amounts made available under subsection (h)(1); and

(B) the amounts made available by States under subsection (h)(3);

(3) result in an operating transportation facility that provides a revenue producing service;

(4) be undertaken through a public and private partnership, with at least ⅓ of full project costs paid using non-Federal funds;

(5) satisfy applicable statewide and metropolitan planning requirements;

(6) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by 1 or more States;

(7) to the extent that non-United States MAGLEV technology is used within the United States, be carried out as a technology transfer project; and

(8) be carried out using materials at least 70 percent of which are manufactured in the United States.

(e) **PROJECT SELECTION CRITERIA.**—Prior to soliciting applications, the Secretary shall establish criteria for selecting which eligible projects under subsection (d) will receive financial assistance under subsection (b). The criteria shall include the extent to which—

(1) a project is nationally significant, including the extent to which the project will demonstrate the feasibility of deployment of MAGLEV technology throughout the United States;

(2) timely implementation of the project will reduce congestion in other modes of transportation and reduce the need for additional highway or airport construction;

(3) States, regions, and localities financially contribute to the project;

(4) implementation of the project will create new jobs in traditional and emerging industries;

(5) the project will augment MAGLEV networks identified as having partnership potential;

(6) financial assistance would foster public and private partnerships for infrastructure development and attract private debt or equity investment;

(7) financial assistance would foster the timely implementation of a project; and

(8) life-cycle costs in design and engineering are considered and enhanced.

(f) **PROJECT SELECTION.**—

(1) **PRECONSTRUCTION PLANNING ACTIVITIES.**—Not later than 90 days after a deadline established by the Secretary for the receipt of applications, the Secretary shall evaluate the eligible projects in accordance with the selection criteria and select 1 or more eligible projects to receive financial assistance for preconstruction planning activities, including—

(A) preparation of such feasibility studies, major investment studies, and environmental impact statements and assessments as are required under State law;

(B) pricing of the final design, engineering, and construction activities proposed to be assisted under paragraph (2); and

(C) such other activities as are necessary to provide the Secretary with sufficient information to evaluate whether a project should receive financial assistance for final design, engineering, and construction activities under paragraph (2).

(2) FINAL DESIGN, ENGINEERING, AND CONSTRUCTION ACTIVITIES.—After completion of preconstruction planning activities for all projects assisted under paragraph (1), the Secretary shall select 1 of the projects to receive financial assistance for final design, engineering, and construction activities.

(g) JOINT VENTURES.—A project undertaken by a joint venture of United States and non-United States persons (including a project involving the deployment of non-United States MAGLEV technology in the United States) shall be eligible for financial assistance under this section if the project is eligible under subsection (d) and selected under subsection (f).

(h) FUNDING.—

(1) IN GENERAL.—

(A) CONTRACT AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—

(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$15,000,000 for fiscal year 1999, \$20,000,000 for fiscal year 2000, and \$25,000,000 for fiscal year 2001.

(ii) CONTRACT AUTHORITY.—Funds authorized by this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

(I) the Federal share of the cost of a project carried out under this section shall be determined in accordance with subsection (b); and

(II) the availability of the funds shall be determined in accordance with paragraph (2).

(B) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

(i) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section (other than subsection (i)) \$200,000,000 for each of fiscal years 2000 and 2001, \$250,000,000 for fiscal year 2002, and \$300,000,000 for fiscal year 2003.

(ii) AVAILABILITY.—Notwithstanding section 118(a), funds made available under clause (i) shall not be available in advance of an annual appropriation.

(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.

(3) OTHER FEDERAL FUNDS.—Notwithstanding any other provision of law, funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement program under section 149 may be used by the State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

(4) OTHER ASSISTANCE.—Notwithstanding any other provision of law, an eligible project selected under this section shall be eligible for other forms of financial assistance provided under this title and the Transportation Equity

Act for the 21st Century, including loans, loan guarantees, and lines of credit.

(i) LOW-SPEED PROJECT.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, of the funds made available by subsection (h)(1)(A) to carry out this section, \$5,000,000 shall be made available to the Secretary to make grants for the research and development of low-speed superconductivity magnetic levitation technology for public transportation purposes in urban areas to demonstrate energy efficiency, congestion mitigation, and safety benefits.

(2) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection such sums as are necessary for each of fiscal years 2000 through 2003.

(B) AVAILABILITY.—Notwithstanding section 118(a), funds made available under subparagraph (A)—

(i) shall not be available in advance of an annual appropriation; and

(ii) shall remain available until expended.

(Added and amended Pub. L. 105-178, title I, §1218(a), (c), June 9, 1998, 112 Stat. 216; Pub. L. 105-206, title IX, §9003(i), July 22, 1998, 112 Stat. 841.)

#### REFERENCES IN TEXT

Section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (a)(4), is section 1036 of Pub. L. 102-240, title I, Dec. 18, 1991, 105 Stat. 1978, which enacted section 309 of Title 49, Transportation, amended section 831 of Title 45, Railroads, and section 302 of Title 49, and enacted provisions set out as notes under section 831 of Title 45 and section 309 of Title 49.

The date of enactment of this subsection, referred to in subsec. (c), is the date of enactment of Pub. L. 105-178, which was approved June 9, 1998.

The Transportation Equity Act for the 21st Century, referred to in subsec. (h)(4), is Pub. L. 105-178, June 9, 1998, 112 Stat. 107, as amended. For complete classification of this Act to the Code, see section 1(a) of Pub. L. 105-178, set out as a Short Title of 1998 Amendment note under section 101 of this title and Tables.

#### PRIOR PROVISIONS

A prior section 322, added Pub. L. 91-605, title II, §205(a), Dec. 31, 1970, 84 Stat. 1742; amended Pub. L. 93-643, §117, Jan. 4, 1975, 88 Stat. 2288; Pub. L. 97-449, §5(d)(3), Jan. 12, 1983, 96 Stat. 2442, related to demonstration projects for elimination or protection of certain ground-level rail-highway crossings and required study of problem of providing increased highway safety at public and private ground-level rail-highway crossings on nationwide basis through elimination of such crossings or otherwise, and report to Congress on such study not later than July 1, 1972, prior to repeal by Pub. L. 100-17, title I, §133(e)(1), Apr. 2, 1987, 101 Stat. 173.

#### AMENDMENTS

1998—Subsec. (a)(3). Pub. L. 105-178, §1218(c)(1), as added by Pub. L. 105-206, §9003(i), struck out “or under 50 miles per hour” before period at end.

Subsec. (d)(1). Pub. L. 105-178, §1218(c)(2)(A), as added by Pub. L. 105-206, §9003(i), struck out “or low-speed” after “high-speed”.

Subsec. (d)(2)(A). Pub. L. 105-178, § 1218(c)(2)(B)(i), as added by Pub. L. 105-206, § 9003(i), substituted “(h)(1)” for “(h)(1)(A)”.

Subsec. (d)(2)(B). Pub. L. 105-178, § 1218(c)(2)(B)(ii), as added by Pub. L. 105-206, § 9003(i), substituted “(h)(3)” for “(h)(4)”.

Subsec. (h)(1)(B)(i). Pub. L. 105-178, § 1218(c)(3), as added by Pub. L. 105-206, § 9003(i), inserted “(other than subsection (i))” after “this section”.

Subsec. (i). Pub. L. 105-178, § 1218(c)(4), as added by Pub. L. 105-206, § 9003(i), added subsec. (i).

#### EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of this title.

#### ADVANCED TECHNOLOGY PILOT PROJECT

Pub. L. 105-178, title III, § 3015(c), June 9, 1998, 112 Stat. 361, as amended by Pub. L. 105-206, title IX, § 9009(k)(1), July 22, 1998, 112 Stat. 857, provided that:

“(1) IN GENERAL.—The Secretary shall make grants for the development of low speed magnetic levitation technology for public transportation purposes in urban areas to demonstrate energy efficiency, congestion mitigation, and safety benefits.

“(2) FUNDING.—Of the amounts made available under section 5001(a)(2) of this Act [112 Stat. 419] for each of fiscal years 1998 through 2003, \$5,000,000 per fiscal year shall be available to carry out this subsection. Financial assistance made available under this subsection and projects assisted with the assistance shall be subject to section 5333(a) of title 49, United States Code.

“(3) FEDERAL SHARE.—The Federal share payable on account of activities carried out using a grant made under this subsection shall be 80 percent of the cost of such activities.”

### § 323. Donations and credits

(a) DONATIONS OF PROPERTY BEING ACQUIRED.—Nothing in this title, or in any other provision of law, shall be construed to prevent a person whose real property is being acquired in connection with a project under this title, after he has been fully informed of his right to receive just compensation for the acquisition of his property, from making a gift or donation of such property, or any part thereof, or of any of the compensation paid therefor, to a Federal agency, a State or a State agency, or a political subdivision of a State, as said person shall determine.

(b) CREDIT FOR ACQUIRED LANDS.—

(1) IN GENERAL.—Notwithstanding any other provision of this title, the State share of the cost of a project with respect to which Federal assistance is provided from the Highway Trust Fund (other than the Mass Transit Account) may be credited in an amount equal to the fair market value of any land that—

- (A) is lawfully obtained by the State or a unit of local government in the State;
- (B) is incorporated into the project;
- (C) is not land described in section 138; and
- (D) the Secretary determines will not influence the environmental assessment of the project, including—

- (i) the decision as to the need to construct the project;
- (ii) the consideration of alternatives; and

(iii) the selection of a specific location.

(2) ESTABLISHMENT OF FAIR MARKET VALUE.—The fair market value of land incorporated into a project and credited under paragraph (1) shall be established in the manner determined by the Secretary, except that—

(A) the fair market value shall not include any increase or decrease in the value of donated property caused by the project; and

(B) the fair market value of donated land shall be established as of the earlier of—

- (i) the date on which the donation becomes effective; or
- (ii) the date on which equitable title to the land vests in the State.

(3) LIMITATION ON APPLICABILITY.—This subsection shall not apply to donations made by an agency of the Federal Government.

(4) LIMITATION ON AMOUNT OF CREDIT.—The credit received by a State pursuant to this subsection may not exceed the State's matching share for the project.

(c) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, OR SERVICES.—Nothing in this title or any other law shall prevent a person from offering to donate funds, materials, or services in connection with a project eligible for assistance under this title. In the case of such a project with respect to which the Federal Government and the State share in paying the cost, any donated funds, or the fair market value of any donated materials or services, that are accepted and incorporated into the project by the State transportation department shall be credited against the State share.

(d) PROCEDURES.—A gift or donation in accordance with subsection (a) may be made at any time during the development of a project. Any document executed as part of such donation prior to the approval of an environmental document prepared pursuant to the National Environmental Policy Act of 1969 shall clearly indicate that—

(1) all alternatives to a proposed alignment will be studied and considered pursuant to such Act;

(2) acquisition of property under this section shall not influence the environmental assessment of a project including the decision relative to the need to construct the project or the selection of a specific location; and

(3) any property acquired by gift or donation shall be revested in the grantor or successors in interest if such property is not required for the alignment chosen after public hearings, if required, and completion of the environmental document.

(e) CREDITING OF CONTRIBUTIONS BY UNITS OF LOCAL GOVERNMENT TOWARD THE STATE SHARE.—A contribution by a unit of local government of real property, funds, or material in connection with a project eligible for assistance under this title shall be credited against the State share of the project at the fair market value of the real property, funds, or material.

(Added Pub. L. 93-87, title I, § 145(a), Aug. 13, 1973, 87 Stat. 273; amended Pub. L. 93-643, § 112, Jan. 4, 1975, 88 Stat. 2285; Pub. L. 100-17, title I, § 146(a), Apr. 2, 1987, 101 Stat. 179; Pub. L. 104-59,

title III, §322, Nov. 28, 1995, 109 Stat. 591; Pub. L. 105-178, title I, §§1212(a)(2)(A)(i), 1301(b)-(d)(1), June 9, 1998, 112 Stat. 193, 225, 226.)

## REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (d), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

## AMENDMENTS

1998—Pub. L. 105-178, §1301(d)(1), substituted “Donations and credits” for “Donations” in section catchline. Subsec. (b). Pub. L. 105-178, §1301(b)(1), substituted “Acquired” for “Donated” in heading.

Subsec. (b)(1), (2). Pub. L. 105-178, §1301(b)(2), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

“(1) GENERAL RULE.—Notwithstanding any provision of this title, the State matching share for a project with respect to which Federal assistance is provided out of the Highway Trust Fund (other than the Mass Transit Account) may be credited by the fair market value of land incorporated into the project and lawfully donated to the State after the date of the enactment of this subsection.

“(2) ESTABLISHMENT OF FAIR MARKET VALUE.—The fair market value of the donated land shall be established as determined by the Secretary. Fair market value shall not include increases and decreases in the value of donated property caused by the project. For purposes of this subsection, the fair market value of donated land shall be established as of the date the donation becomes effective or when equitable title to the land vests in the State, whichever is earlier.”

Subsec. (b)(3). Pub. L. 105-178, §1301(b)(3), substituted “agency of the Federal Government” for “agency of a Federal, State, or local government”.

Subsec. (b)(4). Pub. L. 105-178, §1301(b)(4), struck out “to which the donation is applied” before period at end.

Subsec. (c). Pub. L. 105-178, §1212(a)(2)(A)(i), substituted “State transportation department” for “State highway department”.

Subsec. (e). Pub. L. 105-178, §1301(c), added subsec. (e). 1995—Subsecs. (c), (d). Pub. L. 104-59 added subsec. (c) and redesignated former subsec. (c) as (d).

1987—Pub. L. 100-17 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

1975—Pub. L. 93-643 substituted “after he has been fully informed of his right to receive just compensation for the acquisition of his property” for “after he has been tendered the full amount of the estimated just compensation as established by an approved appraisal of the fair market value of the subject real property”.

### § 324. Prohibition of discrimination on the basis of sex

No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this title or carried on under this title. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

(Added Pub. L. 93-87, title I, §162(a), Aug. 13, 1973, 87 Stat. 280.)

## REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000d of Title 42 and Tables.

### [§§ 325, 326. Repealed. Pub. L. 105-178, title V, §5119(b), June 9, 1998, 112 Stat. 452]

Section 325, added Pub. L. 102-240, title VI, §6003[(a)], Dec. 18, 1991, 105 Stat. 2168, related to international highway transportation outreach program.

Section 326, added Pub. L. 102-240, title VI, §6004(a), Dec. 18, 1991, 105 Stat. 2169; amended Pub. L. 105-130, §5(e)(4), Dec. 1, 1997, 111 Stat. 2558, related to education and training program.

## CHAPTER 4—HIGHWAY SAFETY

Sec.

- 401. Authority of the Secretary.
- 402. Highway safety programs.
- 403. Highway safety research and development.
- 404. National Highway Safety Advisory Committee.
- 405. Occupant protection incentive grants.
- 406. School bus driver training.
- 407. Innovative project grants.
- 408. Alcohol traffic safety programs.
- 409. Discovery and admission as evidence of certain reports and surveys.
- 410. Alcohol-impaired driving countermeasures.
- 411. State highway safety data improvements.

## AMENDMENTS

1998—Pub. L. 105-178, title II, §§2003(a)(2), 2005(b), June 9, 1998, 112 Stat. 327, 334, substituted “Occupant protection incentive grants” for “Repealed” in item 405 and added item 411.

1991—Pub. L. 102-240, title I, §1035(b), title II, §2004(c), Dec. 18, 1991, 105 Stat. 1978, 2079, substituted “Discovery and admission” for “Admission” in item 409 and “Alcohol-impaired driving countermeasures” for “Drunk driving prevention programs” in item 410.

1988—Pub. L. 100-690, title IX, §9002(b), Nov. 18, 1988, 102 Stat. 4525, added item 410.

1987—Pub. L. 100-17, title I, §132(b), Apr. 2, 1987, 101 Stat. 170, added item 409.

1982—Pub. L. 97-364, title I, §101(b), Oct. 25, 1982, 96 Stat. 1740, added item 408.

1978—Pub. L. 95-599, title II, §208(b), Nov. 6, 1978, 92 Stat. 2732, added item 407.

1976—Pub. L. 94-280, title I, §135(d), May 5, 1976, 90 Stat. 442, substituted item 405 “Repealed” for “Federal-aid safer roads demonstration program”.

1975—Pub. L. 93-643, §126(b), Jan. 4, 1975, 88 Stat. 2291, added item 406.

1973—Pub. L. 93-87, title II, §230(b), Aug. 13, 1973, 87 Stat. 294, added item 405.

## CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 110 of this title; title 49 sections 104, 105.

### § 401. Authority of the Secretary

The Secretary is authorized and directed to assist and cooperate with other Federal departments and agencies, State and local governments, private industry, and other interested parties, to increase highway safety. For the purposes of this chapter, the term “State” means any one of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.